

## REMARKS

Claims 1-27 and 32-42 have been canceled without prejudice in view of the requirement for restriction. Claims 25 and 32 have been replaced by new claims 75 and 76, which are believed to be allowable. Claims 28-31, 47, 55, 64, 67 and 70-74 have been amended to depend from new claim 76, which is believed to be allowable in view of the Examiner's objection to claim 32. None of the amendments made herein constitutes the addition of new matter.

### The Requirement for Restriction

The election of the claims of Group 37 (SEQ ID NO:40) has been acknowledged. Claims 28-31, 47, 55, 64, 67 and 70-74 have been amended to depend from new claim 76, which is believed to be allowable in view of the Examiner's objection to claim 32. Rejoinder of the amended methods claims is respectfully requested, because the scope of the referenced protein is not greater than that identified as allowable (SEQ ID NO:40).

### The Objections

The Patent Office has objected to claims 25 and 32 because to claims are drawn to a non-elected invention.

In the interest of advancing prosecution and without acquiescing to the objections, claim 25 has been replaced with new claim 75, which recites SEQ ID NO:40 or a polypeptide consisting of an amino acid sequence which is at least 80% identical to that of SEQ ID NO:40 and binds an ecdysteroid receptor protein.

Claim 32 was objected to as dependent on a rejected base claim. It has been replaced with new claim 76, which recites the protein comprising SEQ ID NO:40, as invited by the Examiner.

The Rejection under 35 U.S.C. 112, first paragraph

Claim 25 has been rejected under 35 U.S.C. 112, first paragraph. Applicants respectfully traverse this rejection.

The Patent Office has indicated that the Specification is enabling for a polypeptide comprising SEQ ID NO:40 but has alleged that it does not reasonably provide enablement for a polypeptide of 80% sequence identity with SEQ ID NO:40 without a functional limitation.

In the interest of advancing prosecution and without acquiescing to the rejection, Applicants have amended claim 25 to add the functional limitation as invited by the Examiner. This claim now recites "wherein the USP polypeptide binds an ecdysteroid receptor".

Applicants respectfully submit that the amendment of the claim has rendered the rejection moot, and the rejection should be withdrawn.

Claim 25 has been rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to meet the written description requirement.

The claims are drawn to a polypeptide (allegedly without function) with at least 80% sequence identity to the elected sequence (SEQ ID NO:40).

In the interest of advancing prosecution, Applicants have added a functional limitation to claim 25. It is Applicants' position that they are entitled to greater breadth than only the specifically exemplified and elected sequence. One of ordinary skill in the relevant art, an art in which the ordinary person is highly educated and highly skilled, would recognize that the specifically exemplified and elected sequence and a reasonably range of sequences with the specified degree of sequence identity are within the inventors'

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possession at the time the invention was made and the application was filed, especially in view of the functional limitation added by amendment.

### Conclusion

This case being in condition for allowance, passage to issuance is respectfully requested.

If there any remaining issues related to patentability, the courtesy of a telephone interview is requested. The Examiner is invited to telephone the undersigned to arrange a mutually convenient time to discuss this application.

This amendment is accompanied by a Petition for Extension of Time (three months), and the United States Patent and Trademark Office is authorized to charge the amount of \$1020.00 as required under 37 C.F.R. 1.17 to Deposit Account No. 07-1969. It is believed that this amendment does not necessitate the payment of any additional fees under 37 C.F.R. 1.16-1.17. If the amount submitted is incorrect, however, please deduct any deficiency or credit any overpayment to Deposit Account No. 07-1969.

Respectfully submitted,

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